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*Attorneys for Plaintiff SWAROVSKI OPTIK North America Limited*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

SWAROVSKI OPTIK NORTH AMERICA  
LIMITED,

Plaintiff,

v.

IBUY GROUP LLC f/k/a VALOR GROUP  
LLC; and IBUY DISTRIBUTION LLC f/k/a F  
& E TRADING LLC d/b/a 6<sup>TH</sup> AVE  
ELECTRONICS,

Defendant.

**CIVIL ACTION NO. \_\_\_\_\_**

**DOCUMENT FILED  
ELECTRONICALLY**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

Plaintiff SWAROVSKI OPTIK North America Limited (“Plaintiff” or “SWAROVSKI OPTIK”), by and through its undersigned counsel, complains of Defendants iBuy Group LLC f/k/a Valor Group LLC (“iBuy Group”) and iBuy Distribution LLC f/k/a F & E Trading LLC d/b/a 6<sup>th</sup> Ave Electronics’ (“iBuy Distribution” and together with iBuy Group, the “Defendants”) conduct and alleges upon information and belief as follows:

### **NATURE OF THIS ACTION**

1. SWAROVSKI OPTIK seeks injunctive relief and monetary damages for Defendants' trademark infringement, false advertising, and unfair competition under the Lanham Act, 15 U.S.C. § 1051, *et seq.*, as well as related state law claims arising from Defendants' infringing conduct.

2. This case concerns Defendants' wrongful, misleading promotion and sale of SWAROVSKI OPTIK Products (defined herein) through online commerce sites. Defendants have and continue to falsely advertise the SWAROVSKI OPTIK Products they offer for sale and sell to consumers in the United States through online commerce sites, including, but not limited to, 6ave.com, iBuy.com, Amazon.com, eBay.com, and Walmart.com. Specifically, Defendants are offering "new" SWAROVSKI OPTIK Products designed and intended for resale to North America but fulfilling orders with materially different SWAROVSKI OPTIK Products designed and intended for resale to international markets.

3. Defendants' conduct has produced and, unless enjoined by this Court, will continue to produce a likelihood of consumer confusion and deception, to the irreparable injury of SWAROVSKI OPTIK. As a result of Defendants' actions, SWAROVSKI OPTIK is suffering a loss of the enormous goodwill that SWAROVSKI OPTIK has created in its trademarks and is losing lost profits from lost sales of products.

4. This action seeks permanent injunctive relief and damages for Defendants' infringement of SWAROVSKI OPTIK's intellectual property rights.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over the subject matter of this Complaint pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and (b), as these claims arise under the Trademark Laws of the United States.

6. This Court has supplemental jurisdiction over the pendent state law claims pursuant to 28 U.S.C. § 1367(a).

7. This Court has personal jurisdiction over Defendants, which are both New Jersey limited liability companies with principal places of business in Somerset, New Jersey. Defendants regularly conduct business or have done business and sold products to consumers, including SWAROVSKI OPTIK Products, within New Jersey.

8. Venue is proper in the United States District Court for the District of New Jersey pursuant to 28 U.S.C. § 1391 because both Defendants reside in this judicial district, and because a substantial part of the events or omissions giving rise to this claim occurred in this District.

### **PARTIES**

9. Plaintiff SWAROVSKI OPTIK North America Limited is a Rhode Island limited liability company with its principal place of business in Cranston, Rhode Island. SWAROVSKI OPTIK develops, manufactures, and sells a variety of binoculars and spotting scope products and accessories under the SWAROVSKI OPTIK brand name (the “SWAROVSKI OPTIK Products”).

10. Defendant iBuy Group LLC f/k/a Valor Group LLC is a New Jersey limited liability company with its principal place of business located at 50 Atrium Drive, Somerset, NJ 08873. Defendant iBuy Group is the parent company of Defendant iBuy Distribution.

11. Defendant iBuy Distribution LLC f/k/a F & E Trading LLC d/b/a 6<sup>th</sup> Avenue Electronics is a New Jersey limited liability company with its principal place of business located at 50 Atrium Drive, Somerset, NJ 08873. Defendant iBuy Distribution does business or has done business and sold products to customers, including SWAROVSKI OPTIK Products, within the State of New Jersey and this District through various online commerce sites including, but not limited to, 6ave.com, iBuy.com, Amazon.com, eBay.com, and Walmart.com.

## **FACTS**

### ***SWAROVSKI OPTIK's Trademark Usage***

12. The U.S. Patent and Trademark Office (“PTO”) has issued several registrations for marks used with binocular and spotting scope products and services (hereinafter, the “SWAROVSKI OPTIK Marks”). The SWAROVSKI OPTIK Marks include, but are not limited to:

Mark	Registration No.	Registration Date
SWAROVSKI OPTIK	5,836,773	August 20, 2019

13. The SWAROVSKI OPTIK Marks have been in continuous use since at least their respective dates of registration.

14. SWAROVSKI OPTIK advertises, distributes, and sells its SWAROVSKI OPTIK Products to consumers under the SWAROVSKI OPTIK Marks.

15. SWAROVSKI OPTIK has also acquired common law rights in the use of the SWAROVSKI OPTIK Marks throughout the United States.

16. The federal trademark registrations for the SWAROVSKI OPTIK Marks were duly and legally issued, are valid and subsisting, and constitute *prima facie* evidence of the validity of the SWAROVSKI OPTIK Marks.

17. SWAROVSKI OPTIK has invested a substantial amount of money and has expended significant time and effort in advertising, promoting, and developing the SWAROVSKI OPTIK Marks throughout the United States and the world. As a result of such advertising and promotion, SWAROVSKI OPTIK has established substantial goodwill and widespread recognition in the SWAROVSKI OPTIK Marks, and the Marks have become associated

exclusively with SWAROVSKI OPTIK and SWAROVSKI OPTIK Products by both customers and potential customers, as well as the general public at large.

18. To create and maintain such goodwill among its customers, SWAROVSKI OPTIK has taken substantial steps to ensure that products bearing the SWAROVSKI OPTIK Marks are of the highest quality. As a result, the SWAROVSKI OPTIK Marks have become widely known and are recognized throughout the United States and the world as symbols of high quality products.

19. For example, each SWAROVSKI OPTIK Product intended for resale into the North American market is protected by the SWAROVSKI OPTIK Limited Lifetime Warranty (the “SWAROVSKI OPTIK North American Warranty”). A leaflet setting forth the terms of the SWAROVSKI OPTIK North American Warranty is included as part of the packaging of every SWAROVSKI OPTIK Product intended for resale into North America.

20. Per its terms, the SWAROVSKI OPTIK North American Warranty applies only to SWAROVSKI OPTIK Products “imported by SWAROVSKI OPTIK North America and sold to a consumer by an Authorized U.S. or Canadian SWAROVSKI OPTIK North American Dealer.” Specifically, the SWAROVSKI OPTIK North American Warranty states:

#### LIMITED LIFETIME WARRANTY

Thank you for purchasing this instrument and welcome to the world of SWAROVSKI OPTIK. Since our founding in 1949, the SWAROVSKI OPTIK community has been committed to providing an ownership experience, which includes our legendary service that is second to none. We sincerely believe that our optics are the best in the world and put them through rigorous tests to ensure that the name you trust is built to the highest standards. But in the unlikely event that you discover a problem with workmanship or materials, we'll gladly examine the instrument. SWAROVSKI OPTIK offers a lifetime warranty against defects in materials or workmanship on the optical system of our products for products purchased by US and Canadian residents from an authorized SWAROVSKI OPTIK North American dealer. Once examined, if it is determined by our technicians that the optical system is defective, we will repair or replace the instrument or defective part. SWAROVSKI OPTIK warrants the following from the date of purchase for the period noted: all other parts of the instrument for ten years; all electronic components for two years; and all non-optical products (i.e. accessories, tripods etc.) for two years. This warranty is subject to normal use and proper care and maintenance as prescribed in the Owner's Manual and determined by SWAROVSKI OPTIK. This warranty is void if damage results from unauthorized repairs, accident, alteration, misuse, abuse, neglect, fire, flood or other acts of God. If after the warranty period your instrument needs servicing, please call customer service at (800) 426-3089. At SWAROVSKI OPTIK, we are totally committed to our customer, products and service. Once you have had the pleasure of owning and using our products, we are sure they will become your trusted companions for life.

Any SWAROVSKI OPTIK product that is purchased in North America that is not imported by SWAROVSKI OPTIK North America and not sold to a consumer by an Authorized U.S. or Canadian SWAROVSKI OPTIK North America Dealer has no Authorized Warranty. Should you require repair service, please go to [https://www.swarovskioptik.com/customer\\_service](https://www.swarovskioptik.com/customer_service) or call customer assistance at (800) 426-3089 to obtain a Service Order Number (SO), which will be used to identify your warranty request through its completion. When you call, our customer service representative will give you instructions as to where to send or take the product for service. Whenever you send or take your product to us, please enclose your name, shipping address, daytime phone number, a brief description of the problem, and a copy of the receipt from an authorized U.S. or Canadian SWAROVSKI OPTIK dealer. Please write the Service Order Number on the enclosure and on the outside of any packaging. We will determine, at our option, whether to repair or replace the instrument. If the instrument is not covered under the warranty, we will contact you with an estimate of the repair cost. Repair charges must be settled prior to work being completed. Any correspondence should be sent to:

SWAROVSKI OPTIK N.A. Ltd. • 2 Slater Road • Cranston, RI 02920 / [warrantyrepair@swarovskioptik.us](mailto:warrantyrepair@swarovskioptik.us)

21. As a result of, *inter alia*, the care and skill exercised by SWAROVSKI OPTIK in the conduct of its business, the high quality of the goods sold under the SWAROVSKI OPTIK Marks, and the extensive advertising, sale, and promotion by SWAROVSKI OPTIK of its products, the SWAROVSKI OPTIK Marks have acquired secondary meaning in the United States and the world, including this District.

22. SWAROVSKI OPTIK is not now, nor has it ever been, affiliated with Defendants, and has not now, nor has it ever, given Defendants authorization to use the SWAROVSKI OPTIK Marks.

***Defendants' Infringing, False Advertising, and Other Improper Conduct***

23. SWAROVSKI OPTIK has never authorized or otherwise granted Defendants permission to sell SWAROVSKI OPTIK Products. Defendants are not authorized SWAROVSKI OPTIK resellers or distributors. Accordingly, Defendants are not authorized to sell SWAROVSKI OPTIK Products.

24. Despite this, Defendants have sold and are currently selling SWAROVSKI OPTIK Products to United States consumers on various online commerce sites, including, but not limited to, 6ave.com, iBuy.com, Amazon.com (using seller names, including, but not limited to, "6ave"),<sup>1</sup> eBay.com (using seller names, including, but not limited to, "6ave"), and Walmart.com (using seller names, including, but not limited to, "6AVE Electronics").

25. Defendants offer for sale and sell SWAROVSKI OPTIK Products on the Internet to consumers in the United States using the SWAROVSKI OPTIK Marks.

26. The SWAROVSKI OPTIK Products that Defendants sell online are advertised as being in "new" condition designed and intended for resale to North America.

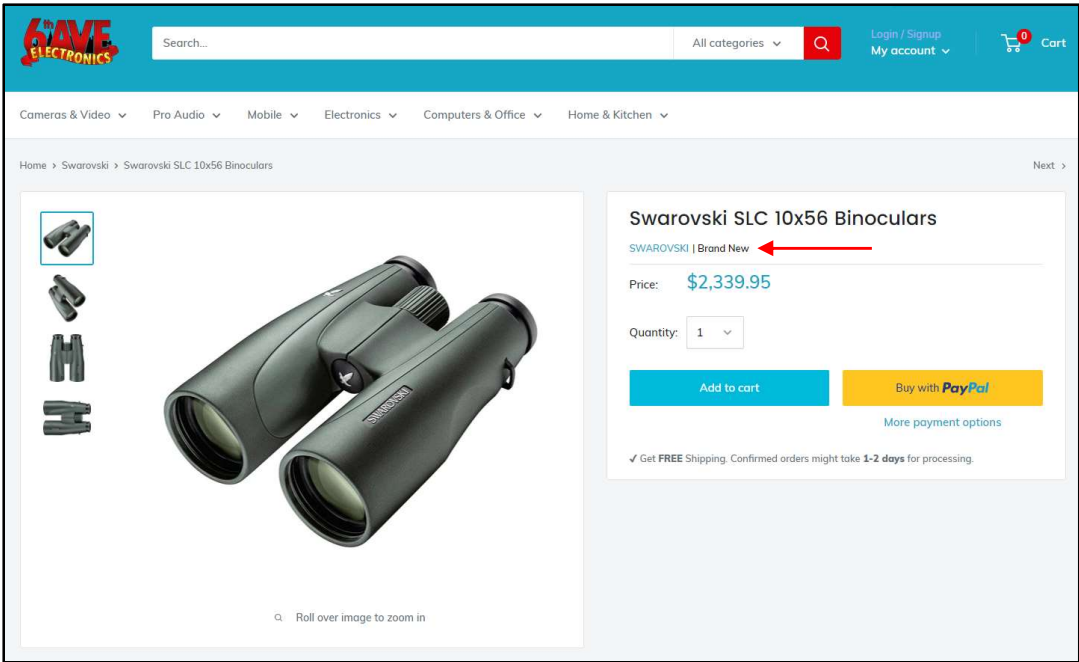
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<sup>1</sup> The Amazon Seller ID associated with Amazon Reseller 6ave is ALAQLAKJ574UN.

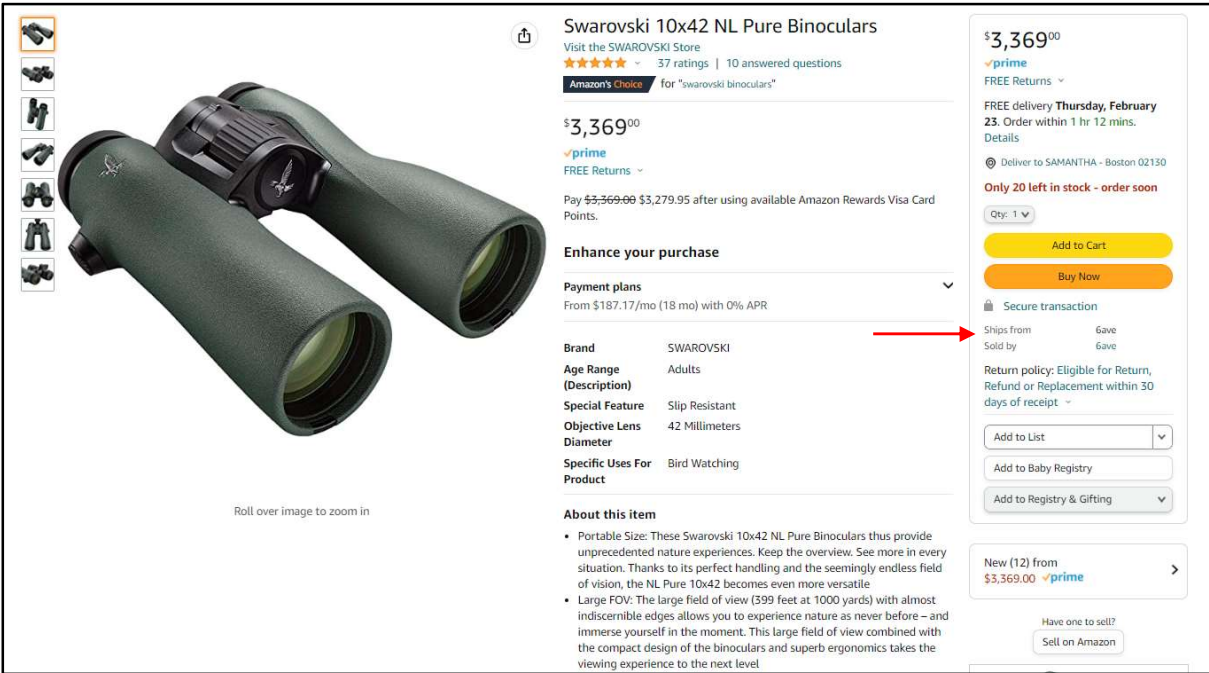


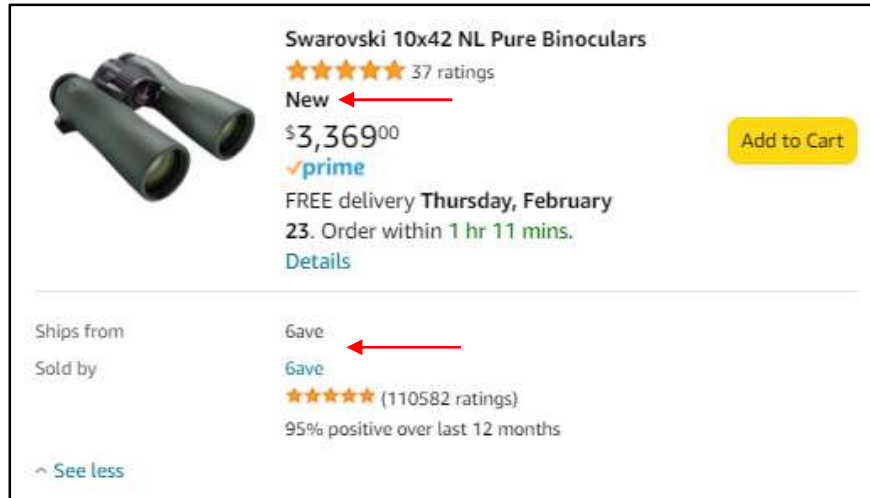
27. The below are examples of Defendants’ product listings advertising SWAROVSKI OPTIK Products to consumers in the United States on the Internet:

**6ave.com**

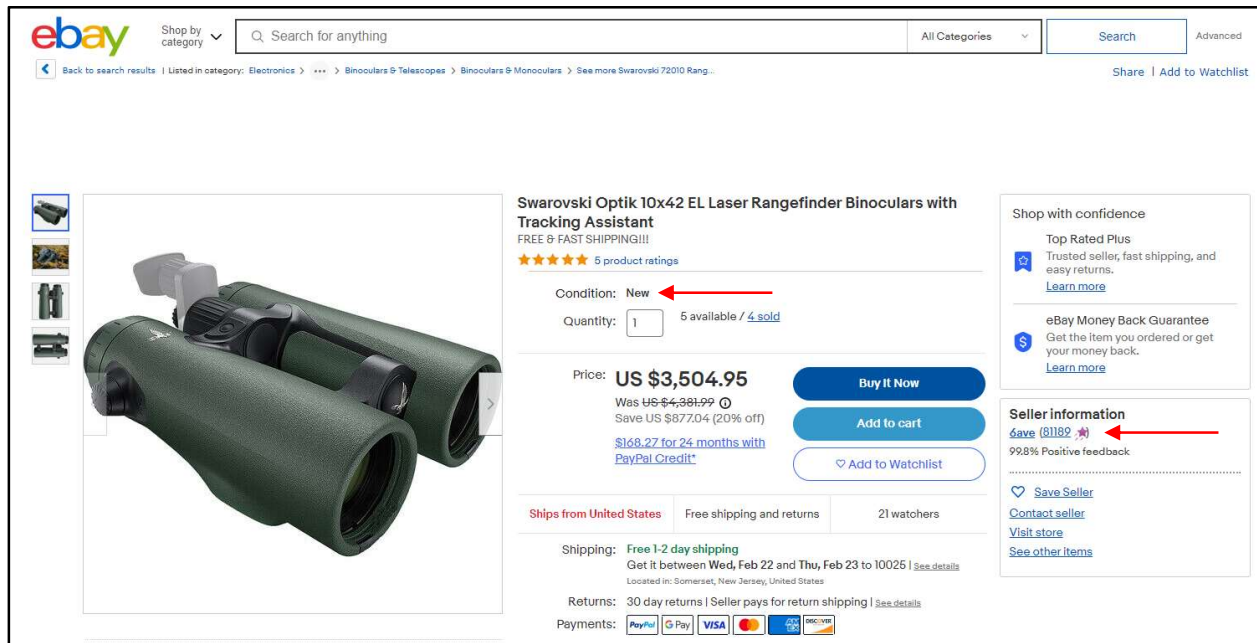


**Amazon.com**





**eBay.com**



28. To obtain the inventory of SWAROVSKI OPTIK Products Defendants have offered for sale and sold on the Internet to United States consumers, Defendants have intentionally sought out, directly or indirectly, and obtained, SWAROVSKI OPTIK Products from international resellers and distributors.



29. Defendant iBuy Group's website, [valorgroupholdings.com](http://valorgroupholdings.com), advertises to consumers that it has a "distribution network in multiple countries, with the aim to establish affiliates that will buy and sell throughout the globe."

30. Defendant iBuy Distribution's website, [ibuy.com](http://ibuy.com), similarly advertises to consumers as a "global distributor in the electronics industry" that it has "relationships with emerging international markets" and has "connections in numerous countries including Hong Kong, Japan, Singapore, Dubai, United Kingdom, The Netherlands, Panama, Argentina, Puerto Rico, Honduras, Colombia, Mexico and Canada."

31. Despite advertising "new" SWAROVSKI OPTIK Products designed and intended for resale in North America, the SWAROVSKI OPTIK Products Defendants actually sell and deliver to consumers in the United States are designed and intended for resale to international markets.

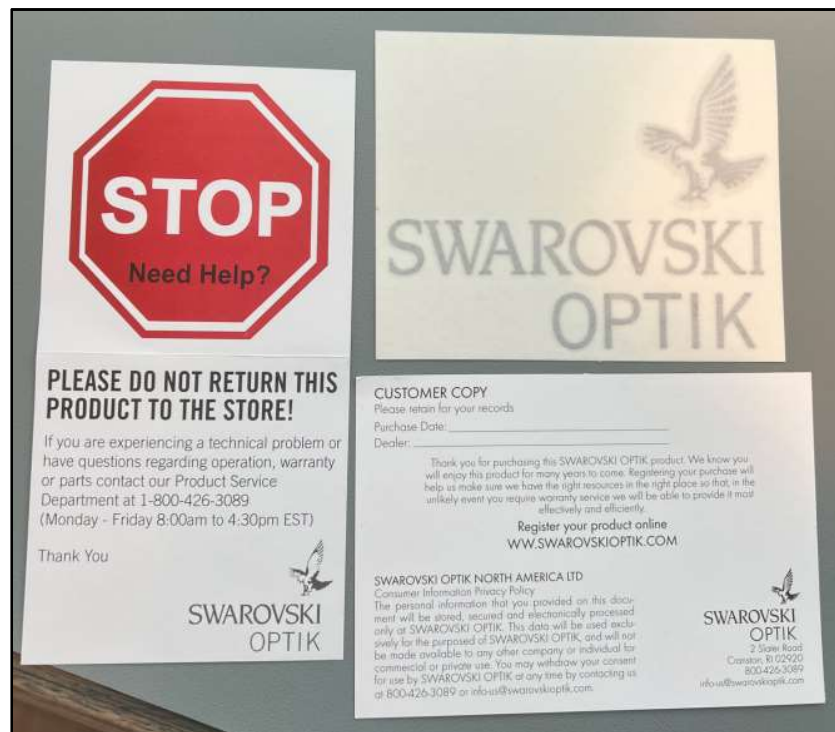
32. SWAROVSKI OPTIK Products designed and intended for resale to international markets are not intended for distribution and resale in North America.

33. As a preliminary matter, SWAROVSKI OPTIK Products designed and intended for resale to international markets have different warranties than SWAROVSKI OPTIK Products designed and intended for resale in North America.

34. Only SWAROVSKI OPTIK Products "imported by SWAROVSKI OPTIK North America and sold to a consumer by an Authorized U.S. or Canadian SWAROVSKI OPTIK North American Dealer" are covered by the SWAROVSKI OPTIK North American Warranty. As such, SWAROVSKI OPTIK Products designed and intended for resale to international markets are not covered by the SWAROVSKI OPTIK North American Warranty.

35. Furthermore, SWAROVSKI OPTIK Products designed and intended for resale to North America have different product packaging and legal disclaimers than SWAROVSKI OPTIK Products designed and intended for resale to international markets.

36. For example, all SWAROVSKI OPTIK Products designed and intended for resale in North America are accompanied by, as part of the product packaging, a leaflet setting forth the terms of the SWAROVSKI OPTIK North American Warranty and Consumer Privacy Policy, directions as to how to contact SWAROVSKI OPTIK in the event of technical problems or questions regarding operation of the product, and a free SWAROVSKI OPTIK decal sticker:



37. As another example, SWAROVSKI OPTIK also places a California Proposition 65 disclaimer sticker on the product packaging of all SWAROVSKI OPTIK Products designed and intended for resale to the North American market. The product packaging for SWAROVSKI OPTIK Products designed and intended for resale to international markets does not have a California Proposition 65 disclaimer sticker.

38. Upon information and belief, Defendants were aware at all relevant times that SWAROVSKI OPTIK Products designed and intended for resale to international markets contain material differences than the same products designed and intended for resale to North America.

39. After importing SWAROVSKI OPTIK Products designed and intended for resale to international markets into the United States, Defendants falsely advertise the SWAROVSKI OPTIK Products they offer for sale and sell on the Internet to United States consumers using the SWAROVSKI OPTIK Marks.

40. Specifically, Defendants advertise “new” SWAROVSKI OPTIK Products designed and intended for resale to North America on the Internet but fulfill orders with materially different SWAROVSKI OPTIK Products designed and intended for resale to international markets.

41. By advertising “new” SWAROVSKI OPTIK Products to consumers in the United States, Defendants falsely represent and/or create the false impression that the products are designed and intended for resale to North America and are accompanied by the corresponding SWAROVSKI OPTIK North American Warranty and product packaging. However, the SWAROVSKI OPTIK Products Defendants actually sell and deliver to consumers are materially different products designed and intended for resale to international markets.

42. Furthermore, Defendants falsely advertise SWAROVSKI OPTIK Products on amazon.com. Defendants represent that the SWAROVSKI OPTIK Products they offer for sale on amazon.com are “new,” yet Defendants are prohibited from selling “new” SWAROVSKI OPTIK Products on Amazon.com.

43. Amazon’s announced Terms and Conditions<sup>2</sup> require that “new” products carry the manufacturer’s warranty:

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<sup>2</sup> Available at: <https://sellercentral.amazon.com/help/hub/reference/external/200339950>.

### General condition guidelines

The following guidelines apply to all product categories unless otherwise indicated in the Category-Specific Condition Guidelines listed below:

**New:**

Just like it sounds. A brand-new item. Original manufacturer's warranty, if any, still applies, with warranty details included in the listing comments. Original packaging is present for most New items but certain items like shoes may be re-boxed.

44. Pursuant to its terms, the SWAROVSKI OPTIK North American Warranty applies only to SWAROVSKI OPTIK Products “imported by SWAROVSKI OPTIK North America and sold to a consumer by an Authorized U.S. or Canadian SWAROVSKI OPTIK North American Dealer.”

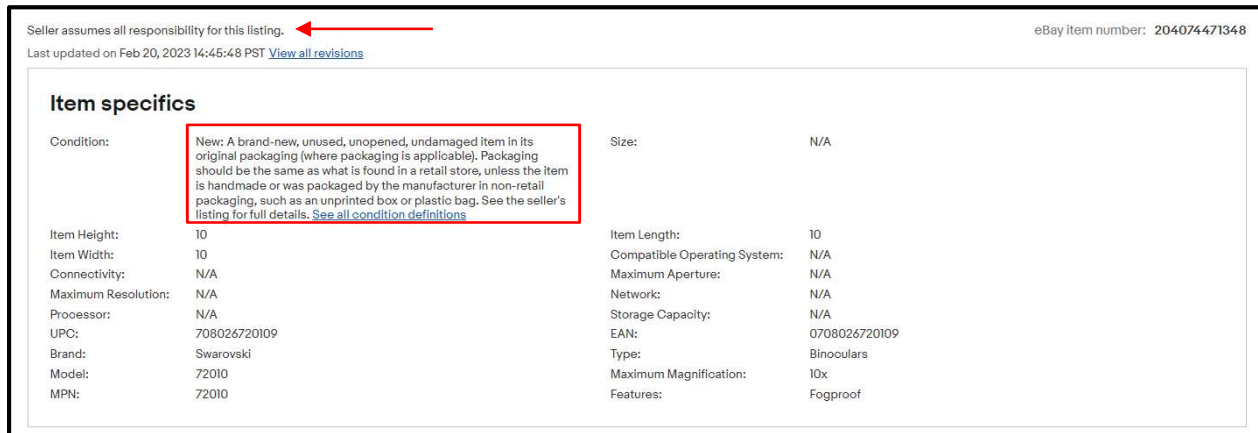
45. Because the SWAROVSKI OPTIK Products Defendants actually sell and deliver to United States consumers are designed and intended for resale to international markets, the SWAROVSKI OPTIK Products offered for sale and sold by Defendants are not covered—and cannot be covered—by the SWAROVSKI OPTIK North American Warranty.

46. Additionally, because Defendants are not authorized to sell SWAROVSKI OPTIK Products, the SWAROVSKI OPTIK North American Warranty excludes products sold by Defendants. The SWAROVSKI OPTIK Products offered for sale and sold by Defendants are not covered—and cannot be covered—by the SWAROVSKI OPTIK North American Warranty.

47. Because Defendants’ SWAROVSKI OPTIK Products are not covered by the SWAROVSKI OPTIK North American Warranty, the SWAROVSKI OPTIK Products actually sold and delivered to purchasing customers by Defendants via amazon.com are not in “new” condition pursuant to Amazon’s Terms and Conditions, as advertised.

48. Moreover, Defendants falsely advertise SWAROVSKI OPTIK Products on eBay.com. Defendants represent that the SWAROVSKI OPTIK Products they offers for sale on eBay.com are “brand-new” “in its original packaging” that “should be the same as what is found

in a retail store.” Specifically, Defendants’ eBay.com product listings for SWAROVSKI OPTIK Products state:



49. However, the SWAROVSKI OPTIK Products designed and intended for resale to international markets that Defendants actually sell and deliver to purchasing customers have materially different product packaging than SWAROVSKI OPTIK Products designed and intended for resale to North America.

50. Because the SWAROVSKI OPTIK Products Defendants actually sell and deliver to purchasing customers have materially different product packaging than SWAROVSKI OPTIK Products designed and intended for resale to North America, the SWAROVSKI OPTIK Products actually sold and delivered to purchasing customers by Defendants via eBay.com do not come in packaging that is “the same as what is found in a retail store,” as advertised.

51. Defendants intentionally advertise and sell SWAROVSKI OPTIK Products in ways that are likely to deceive consumers and create consumer confusion.

52. Defendants’ continued advertisement, display, and sale of SWAROVSKI OPTIK Products on the Internet has harmed, and continues to harm, SWAROVSKI OPTIK and consumers.

***Likelihood of Confusion and Injury Caused by Defendants' Actions***

53. Defendants' actions substantially harm SWAROVSKI OPTIK by placing falsely advertised and materially different SWAROVSKI OPTIK Products into the stream of commerce in the United States.

54. Defendants' advertisement and sale of SWAROVSKI OPTIK Products bearing the SWAROVSKI OPTIK Marks is likely to cause—and has caused—consumer confusion by representing to consumers that the SWAROVSKI OPTIK Products offered for sale by Defendants are “new” and designed and intended for resale to North America, when they are not.


55. Defendants' advertisement and sale of SWAROVSKI OPTIK Products bearing the SWAROVSKI OPTIK Marks is likely to cause—and has caused—consumer confusion and disappointment regarding SWAROVSKI OPTIK's sponsorship or approval of those products.

56. Defendants' actions substantially harm SWAROVSKI OPTIK's goodwill and reputation when consumers learn that the SWAROVSKI OPTIK Products they have purchased from Defendants are materially different than SWAROVSKI OPTIK Products designed and intended for resale to North America and not protected by the SWAROVSKI OPTIK North American Warranty.


57. Defendants' conduct results in consumer confusion as well as the dilution of SWAROVSKI OPTIK's goodwill and trade name as consumers are not receiving the products they believe they are purchasing.


58. The harm being caused by Defendants in this case is not theoretical. Specifically, consumers have complained about Defendants' false and misleading advertisements and practice of improperly offering for sale and selling products designed and intended for sale to international markets:




 **You forgot to mention that was a grey market item therefore there is no warranty with Sony. Be honest and write it in the description. Outside of that the camera is fine.** i\*\*\*a (124★)  
US \$974.95

Sony RX100 VII Premium Compact Camera +1.0-type stacked CMOS sensor  
(DSCRX100M7) (#204064812982)

 "This item is listed as a USA model. However I noticed there was no warranty card in the box nor was the serial number recognized by Canon USA online. Is this an international/grey market model?"  
[Read less](#)  
By Kyle Re on April 26, 2022.

 "Camera was good but came with foreign power cord and manual, that should have been shown in description but was not."  
By James M. on September 30, 2022.

59. Consumers have also complained about Defendants' practice of falsely advertising the condition of the products offered for sale and sold on the Internet:

 **The item was not properly packed. The box had very little padding inside and it arrived open. The item was not new. It had been opened to remove the warranty information and whatever other documents came with it.** y\*\*\*e (2)  
US \$8,414.95

NIKKOR Z 800mm f/6.3 VR S (International Model) (#204092290995)

 **Not good at all lied in description it was an open box when they said it was manufactured sealed.** 3\*\*\*t (30★)  
US \$934.95

Sony Alpha A6100 Mirrorless Camera with 16-50mm Zoom Lens (White) (#194480195687)

60. Moreover, by offering SWAROVSKI OPTIK Products to consumers in the United States without a California Proposition 65 disclaimer, Defendants endanger the health and safety of SWAROVSKI OPTIK's consumers, who, therefore, may not be aware of potential health risks.

61. Additionally, by offering SWAROVSKI OPTIK Products to consumers in the United States without a California Proposition 65 disclaimer, Defendants cause SWAROVSKI OPTIK Products to enter the stream of commerce in the United States that do not comply with applicable state and federal regulations, creating product liability exposure for SWAROVSKI OPTIK, as well damage to SWAROVSKI OPTIK's goodwill and reputation.

62. Defendants' conduct as described herein results in the lessening of sales of genuine, properly advertised SWAROVSKI OPTIK Products to the detriment of SWAROVSKI OPTIK.

63. As a result of Defendants' actions, SWAROVSKI OPTIK is suffering the loss of the enormous goodwill it created in the SWAROVSKI OPTIK Marks.

64. Defendants continue to commit the acts complained of herein, and unless restrained and enjoined, will continue to do so, all to SWAROVSKI OPTIK's irreparable harm.

**COUNT I**  
**Lanham Act – Trademark Infringement and False Advertising**  
**(15 U.S.C. § 1125(a))**

65. SWAROVSKI OPTIK hereby realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

66. This is a claim for federal trademark infringement under 15 U.S.C. § 1125(a).

67. SWAROVSKI OPTIK engages in interstate activities designed to promote its goods and services sold, as well as the goodwill associated with the SWAROVSKI OPTIK Marks, throughout the United States.

68. The SWAROVSKI OPTIK Marks have been, and will continue to be, known throughout the United States as identifying and distinguishing SWAROVSKI OPTIK's products and services.

69. By selling or distributing products using the SWAROVSKI OPTIK Marks as alleged herein, Defendants are engaging in unfair competition, false advertising, and/or falsely representing sponsorship by, affiliation with, or connection to SWAROVSKI OPTIK and their goods and services in violation of 15 U.S.C. § 1125(a).

70. By advertising or promoting products using the SWAROVSKI OPTIK Marks as alleged herein, Defendants are misrepresenting the nature, characteristics, and qualities of their goods and services in violation of 15 U.S.C. § 1125(a).

71. Defendants' actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with the SWAROVSKI OPTIK Marks, thereby causing immediate, substantial, and irreparable injury to SWAROVSKI OPTIK.

72. By selling and advertising products under the SWAROVSKI OPTIK Marks as alleged herein, SWAROVSKI OPTIK is entitled to a judgment of three times its damages and Defendants' ill-gotten profits, together with reasonable attorneys' fees, pursuant to 15 U.S.C. § 1117(a).

73. As a direct and proximate result of Defendants' actions, SWAROVSKI OPTIK has been, and continues to be, damaged by Defendants' activities and conduct. Defendants have profited thereby, and unless their conduct is enjoined, SWAROVSKI OPTIK's reputation and goodwill will continue to suffer irreparable injury that cannot adequately be calculated or compensated by money damages. Accordingly, SWAROVSKI OPTIK is entitled to injunctive relief pursuant to 15 U.S.C. § 1116.

**COUNT II**  
**Deceptive Trade Practices Under State Law**  
**(N.J.S.A. §§ 56:8-1, et seq.)**

74. SWAROVSKI OPTIK hereby realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

75. By advertising or promoting products using the SWAROVSKI OPTIK Marks as alleged herein, Defendants have used or employed unconscionable commercial practices,

deception, false pretenses, false promises, and misrepresentations in the sale of SWAROVSKI OPTIK to consumers.

76. As detailed above, Defendants' acts have caused a likelihood of confusion or misunderstanding as to the source, sponsorship, or approval of the SWAROVSKI OPTIK Products that Defendants sell to consumers.

77. Defendants' acts have caused SWAROVSKI OPTIK damage, have irreparably harmed SWAROVSKI OPTIK and, unless enjoined, will continue to do so in a manner affording SWAROVSKI OPTIK no adequate remedy at law.

78. SWAROVSKI OPTIK has refused to desist from these wrongful acts, and therefore Defendants have indicated that they intend to continue this unlawful conduct, unless restrained by this Court.

#### **RELIEF REQUESTED**

WHEREFORE, Plaintiff SWAROVSKI OPTIK North America Limited prays for judgment in its favor and against Defendants providing the following relief:

- A. Finding that, (i) as to Count I, Defendants' conduct violates 15 U.S.C. § 1125(a); and (ii) as to Count II, Defendants engaged in willful unfair and deceptive conduct in violation of state law; resulting in Defendants, their partners, officers, agents, servants, employees, attorneys, and all those persons in active concert or participation with Defendants, including, but not limited to, any online platform, such as Amazon.com, eBay.com, and Walmart.com, or any website, such as 6ave.com or iBuy.com, website host, website administrator, domain registrar, or internet service provider, being preliminarily and permanently enjoined from:

- a. using, or attempting to use, any of SWAROVSKI OPTIK's intellectual property, including, but not limited to, the SWAROVSKI OPTIK Marks;
  - b. acquiring, or taking any steps to acquire, any SWAROVSKI OPTIK Products;
  - c. selling, or taking any steps to sell, any SWAROVSKI OPTIK Products;
  - d. engaging in any activity constituting unfair competition with SWAROVSKI OPTIK; and
  - e. inducing, assisting, or abetting any other person or entity in engaging in or performing any of the business activities decried in the paragraphs above.
- B. Award SWAROVSKI OPTIK its actual damages suffered as a result of Defendants' acts and treble said damages as provided by law pursuant to 15 U.S.C. § 1117;
- C. Award SWAROVSKI OPTIK Defendants' profits as a result of Defendants' acts and treble said damages as provided by law pursuant to 15 U.S.C. § 1117;
- D. Enter judgment that Defendants' acts of infringement have been knowing and willful;
- E. Award SWAROVSKI OPTIK its reasonable attorneys' fees in bringing this action as allowed by law;
- F. Award SWAROVSKI OPTIK pre-judgment and post-judgment interest in the maximum amount allowed under the law;
- G. Award SWAROVSKI OPTIK the costs incurred in bringing this action;
- H. Award SWAROVSKI OPTIK other relief as this Court deems just and proper.

**JURY TRIAL CLAIM**

SWAROVSKI OPTIK hereby requests trial by jury on all claims so triable.

Respectfully submitted,

SWAROVSKI OPTIK NORTH AMERICA  
LIMITED

by its attorneys,

/s/ Dana B. Parker

Dana B. Parker, Esq.

(NJ Attorney ID #: 041682003)

Michael R. Murphy, Esq.

(NJ Attorney ID #: 034102007)

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Dated: March 2, 2023